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54/09/21 Sheppard Loses Fight For Bail

Cleveland Plain Dealer

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CLEVELAND — Thunderstorms today, windy and cooler tonight. Expected high today 76, low tonight 50.

See Page 20.

CLEVELAND PLAIN DEALER

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SHEPPARD LOSES FIGHT FOR BAIL

JURY CALL EXPECTED THIS WEEK

Corrigan Weighs Seeking Writ as Judge Sets

Oct. 18 for Trial

(Photo on Picture Page)

BY SANFORD WATZMAN

Dr. Samuel H. Sheppard is not entitled to bail, Common Pleas Judge Edward Blythin ruled late yesterday.

Barring last-minute moves by the defense, the osteopathic neurosurgeon will go to trial Oct. 18 for the murder of his wife.

Judge Blythin indicated he would issue a special call for 75 prospective jurors "sometime this week."

His denial of Dr. Sam's bail application came after the court heard more than 20 witnesses, all subpoenaed by the defense.

The hearing, without precedent in the state, lasted three and a half days. Beginning Sept. 10, it was adjourned the next day until last Friday, and was recessed again until yesterday.

Driven to Tears

When the decision was announced at 3:55 p. m. the young osteopath received it calmly. Earlier he had been driven to tears in an impassioned closing argument by his chief defense attorney, William J. Corrigan.

Apparently only a slim hope remained with the defense that Dr. Sam would go free before the murder jury begins hearing his case.

Corrigan said he might file a writ of habeas corpus in the Court of Appeals alleging that his client was being held in custody unlawfully. Such a writ could be docketed for an immediate hearing.

The bail ruling itself cannot be appealed. Corrigan acknowledged this in open court, but he asked Judge Blythin not to set a trial date "at this time."

Expresses Dissatisfaction

He explained to the judge that "there is a method by which we can challenge your finding."

Later he told newsmen he had in mind the possible habeas corpus action.

"Needless to say," he told Judge Blythin, "we are not satisfied with your ruling."

But the court stuck to the Oct. 18 date, remarking that "we want to move these first-degree murder cases along, and we are doing it in numerical order."

Six other capital-offense trials precede Dr. Sam's on the docket.

In refusing to grant bail Judge Blythin observed:

"We heard quite a goodly number of witnesses. We do not decide these matters on quantity, but on the quality of the evidence.

"I am pleased we are agreed he (Dr. Sam) is not on trial here, and that his guilt or innocence is in no way involved in this hearing."

The court continued that, since there was no testimony introduced by the state, it had "no means of knowing a word that was said" before the grand jury, which indicted Dr. Sam on the murder charge.

(Continued on Page 4, Column 4)

Sheppard Is Denied Bail;

Jury Call Seen This Week

(Continued From First Page)

But Judge Blythin gave recognition to the argument offered by Assistant County Prosecutor John J. Mahon—that there were three "living persons" in the murder home on 12:30 a. m. July 4, and that only two were alive at 6 the same morning.

This was a reference to the defendant, his murdered wife, Marilyn, and their six-and-a-half-year-old son, Samuel (Chip) Sheppard.

Backs Presumption

"This court has heard no evidence that anybody else was in the house between those times," Judge Blythin went on. "The judgment of this court is that the presumption has not been overruled."

The "presumption," contained in the first-degree indictment, is that there is sufficient cause for holding the defendant without bail. It does not touch upon his guilt or innocence.

In his concluding argument—half as long as Corrigan's—Prosecutor Mahon stressed this point:

"Who can tell what happened (in the murder home) but Dr. Sam Sheppard, who didn't see fit to take the witness stand and tell your honor?"

Stresses Silence

"That's the main part of this case. Corrigan says he (the defendant) wants to do everything to be helpful. I'm sure he would have been helpful to take the stand and tell your honor. But all we get is silence.

"All the other witnesses—none of their testimony wipes out the presumption contained in that indictment. The defense has failed utterly."

Corrigan began his 40-minute summation by accusing the state of using a "Soviet primer" for its law book. For the first time in the case he cut loose with all the oratorical guns that have helped him achieve eminence as a criminal lawyer.

"Background for Murder"

The American law, he said, is that a man is presumed innocent until proved guilty. The indictment raises no presumption of guilt, he added, although he charged the state with publicizing the indictment as carrying that implication.

Going to the theme of his argument, the defense attorney told the court: "Let me give you a background for murder."

He reviewed testimony that Dr. Sam had tried to save a fisherman's life a few nights before the killing, that he enjoyed a "most pleasant evening" with his neighbors on the fatal night, that he fixed his son's model airplane while the neighbors were there and that he sat in the same chair with his wife before they left.

"Is this a background for murder?" Corrigan demanded.

Refers to Injuries

The defense attorney continued that Dr. Sam was assaulted twice and injured by an intruder in his home.

"How do I know that?" he asked. "Sam Sheppard hasn't testified, but he doesn't have to. Because the Houks found this man suffering from injuries."

Corrigan charged that Cleveland detectives questioned his client on July 4 and "solved the murder that day." Since then, he said, they have been trying to find evidence to build their case against the defendant.

"Stand up and look at the judge," he ordered Dr. Sam. But his client remained seated.

Accuses Press

"I say to you we are representing an innocent man," Corrigan observed to the court. "We haven't charged him a nickel. The matter of fees and money have certainly never entered into our conversations."

Corrigan accused the press of "creating a sensation to sell newspapers."

"If freedom of the individual

goes down the drain, the freedom of the press goes also," he pointed out as he referred to the case of William Oatis, an American correspondent who was was tried in Czechoslovakia for espionage.

"What you do here today," he told Judge Blythin, "will go throughout the land, to the ships at sea and will go to Paris and Moscow."

Winston on Stand

"We urge this court to announce that the Constitution still lives in the criminal court of Cuyahoga County."

Testimony in the case was concluded earlier when Bert R. Winston, spring-term foreman of the grand jury was recalled to the stand.

Winston was asked whether he had discussed the Sheppard case with James W. Shocknessy, chairman of the Ohio Turnpike Commission. He replied that he could not recall ever meeting Schocknessy.

Under questioning by Associate Defense Counsel Fred W. Garmone, Winston conceded that he had conversations about Dr. Sam's "earning capacity" and had mentioned a scalp operation performed by the osteopath.

Sustains Objection

Garmone demanded to know whether those points had been part of the evidence presented to the grand jury. This brought an immediate objection from the state, which Judge Blythin sustained despite a long plea by Garmone.

On Sept. 10, when he first testified, Winston denied that the grand jury had been "pressured" into returning an indictment. He said the panel had been "pressured by curious people" who wanted to know what the evidence was.

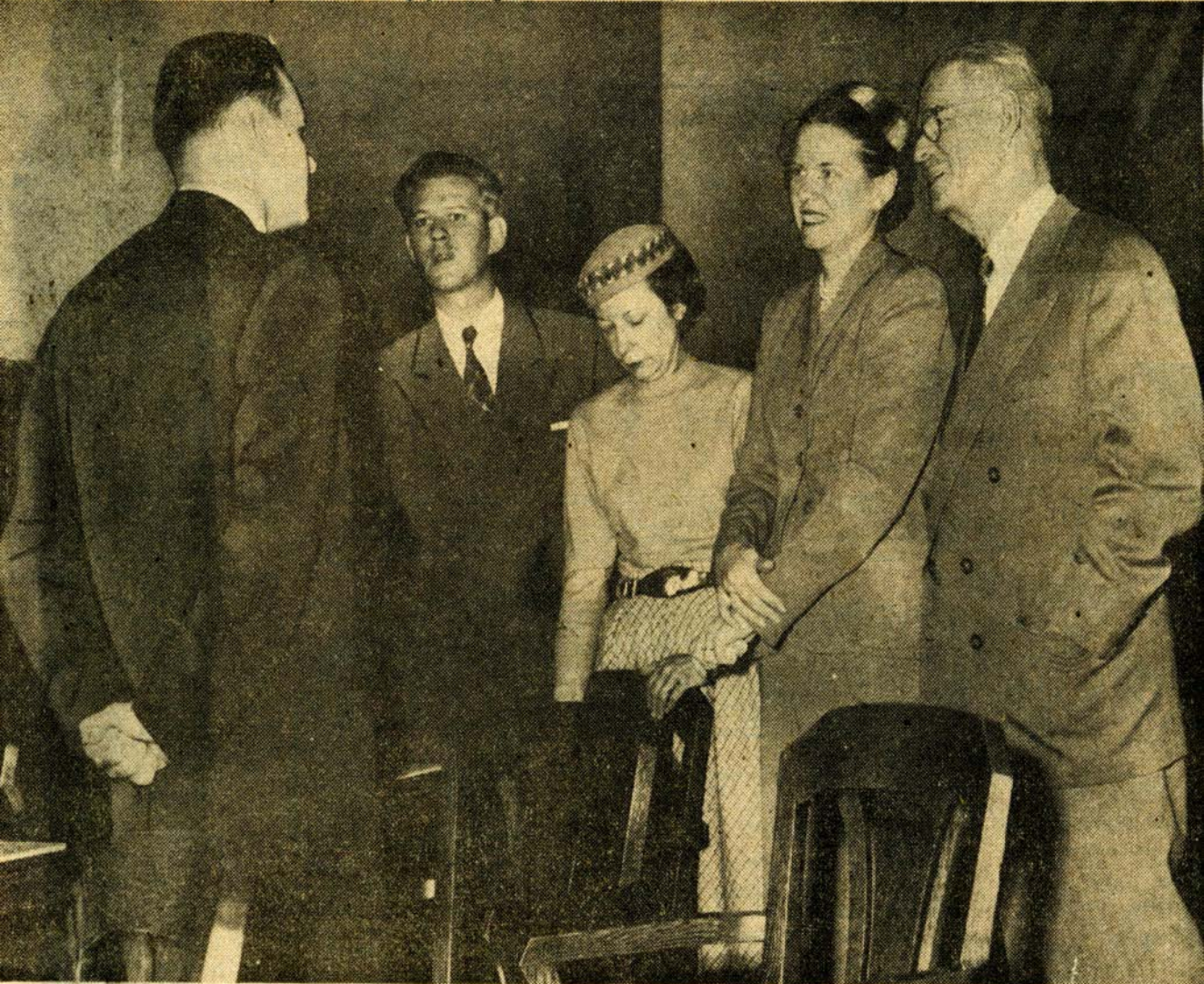
Other witnesses yesterday were the defendant's brother, Dr. Richard N. Sheppard, and Richard Knitter of Sheffield Lake.

Tells of Unmade Bed

The brother told how, on the murder morning, he found an unmade bed and other signs of untidiness in a bedroom occupied until the previous day by Dr. Lester T. Hoversten, a guest of Dr. Sam.

Knitter related that he was driving by the Bay Village home about 4 a. m. on July 4. He said he saw a man walking toward the residence and described him as having "bushy hair . . . cut close at the ears."

Arrested July 30 on the murder charge, Dr. Sam was released on \$50,000 bail on Aug. 16. But he was again taken into custody 30 hours later after the indictment had been returned.



EARNEST CONVERSATION between Dr. Samuel H. Sheppard and his relatives took place in the courtroom shortly before his bail motion was denied. Facing the murder defendant and the camera (left to right) are Dr. Richard N. Sheppard, Mrs. G. R. Brown, Dr. Richard N.'s wife and Dr. Richard A. Sheppard.